

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS, EASTERN DIVISION**

**PATRICIA AIELLO *et al.*,  
Plaintiffs, Individually, and As Assignees  
of Claims Owned by Kube, LLC,**

**Plaintiffs,**

**V.**

**SOUTHERN WINE & SPIRITS OF AMERICA, INC., and successor entity SOUTHERN [sic] GLAZER'S WINE AND SPIRITS OF ILLINOIS, LLC, An Illinois corporation,**

## Defendants.

**Case No.: 1:17-cv-00985**

**Judge Leinenweber**

**DEFENDANT’S MOTION TO DISMISS  
PLAINTIFFS’ FOURTH AMENDED COMPLAINT**

Defendant Southern Glazer’s Wine and Spirits of Illinois, LLC (“defendant” or “Southern Glazer”) moves to dismiss the Fourth Amended Complaint (“Complaint”) with prejudice pursuant to Federal Rule of Civil Procedure 12(b)(6) (the “Motion”). In support of its Motion, Southern Glazer states as follows:

1. This is an action for unpaid wages brought pursuant to the Fair Labor Standards Act (“FLSA”) and the Illinois Minimum Wage and Payment Collection Act (“IWPCA”).

2. Plaintiffs fail to state a claim under Count I (FLSA) and Count II (IWPCA) because these claims can only be maintained against plaintiffs' employer, and the Event Staffing Agreement plaintiffs attached to the Third Amended Complaint clearly establishes that Invision Marketing Solutions ("Invision"), Southern Wine & Spirits of America, Inc. ("SWSA"),<sup>1</sup> or Southern Glazer never employed plaintiffs.

<sup>1</sup> Invision is a now-defunct division of SWSA (collectively, “SWSA/Invision”). The Complaint alleges that Southern Glazer is the “successor entity” to SWSA/Invision. (ECF No. 108 at ¶ 1.)

3. Plaintiffs fail to state a claim under the FLSA and IWPCA because plaintiffs' prior allegations, in conjunction with the Event Staffing Agreement, establishes that Invision Marketing Solutions ("Invision"), Southern Wine & Spirits of America, Inc. ("SWSA"), or Southern Glazer never employed plaintiffs.

4. Alternatively, the allegations of the Fourth Amended Complaint alone fail to allege sufficient facts under *Iqbal* or *Twombly* to show that Invision Marketing Solutions ("Invision"), Southern Wine & Spirits of America, Inc. ("SWSA"), or Southern Glazer was ever plaintiffs' employer, joint or otherwise.

**WHEREFORE**, Defendant Southern Glazer's Wine and Spirits of Illinois, LLC respectfully requests that the Court dismiss the Fourth Amended Complaint with prejudice pursuant to Rule 12(b)(6) and grant all such further relief that this Court deems just.

Dated: June 28, 2019

Respectfully submitted,

By: /s/ Anne E. Larson  
One of the Attorneys for Defendant,  
**SOUTHERN GLAZER'S WINE AND  
SPIRITS OF ILLINOIS, LLC**

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**CERTIFICATE OF SERVICE**

The undersigned attorney certifies that on June 28, 2019, she filed the foregoing *Defendant's Motion to Dismiss Plaintiffs' Fourth Amended Complaint* electronically with the Clerk of Court using the ECF system, which sent notification of such filing to the following:

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